

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JAMES DILLON,)	
)	
Plaintiff,)	
)	
v.)	1:13-CV-897
)	
BMO HARRIS BANK, N.A., et al,)	
)	
Defendants.)	

ORDER

James Dillon brought suit against four defendants in October 2013. Since then, all defendants but one have been seeking to have the case against them resolved in arbitration. The Court's March 2016 decisions in the plaintiff's favor, (Docs. 215, 216, 217), are now on appeal.

All defendants seek a stay of proceedings pending a decision by the Fourth Circuit in those appeals. (Docs. 231, 234). Mr. Dillon does not oppose a stay pending appeal as it relates to defendant Bay Cities Bank. (Doc. 237 at 1). He opposes a stay as it relates to defendants Four Oaks Bank and Trust Company, (Doc. 238), Generations Community Federal Credit Union and BMO Harris Bank, N.A. (Doc. 237 at 1).

Mr. Dillon also seeks leave of court to file an amended complaint adding another plaintiff, India Banks, who makes similar claims against BMO and Generations. (Doc. 248). The defendants do not object, subject to the motion to stay. (Doc. 256).

In July 2016, the Court stayed the case pending its decision on a motion for sanctions filed by one defendant against the plaintiff's counsel. (Doc. 257). The Court

recently granted that motion. (Doc. 264). It is therefore appropriate that the Court re-evaluate the motions to stay.

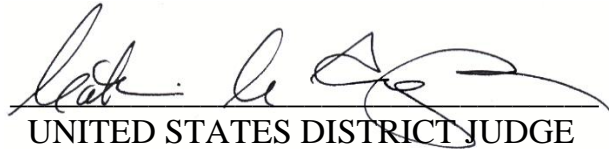
Without deciding that any appeal is or is not frivolous, the Court concludes in the exercise of its discretion that a stay is appropriate as to all defendants except Four Oaks. The plaintiff's case against Four Oaks may proceed to limited discovery as set forth herein, but the Court will defer a full Rule 26 pretrial discovery conference until after the appeals of the other defendants are resolved. The Court will defer ruling on the motion to amend.

It is **ORDERED** that:

1. The motion to stay pending appeal filed by Generations, BMO, and Bay Cities, (Docs. 231), is **GRANTED** and the case against these defendants is **STAYED** pending a decision by the Fourth Circuit or further order of the Court.
2. The motion to stay filed by Four Oaks, (Doc. 234), is **GRANTED in part and DENIED in part**, as follows: The plaintiff and Four Oaks may serve up to ten interrogatories and ten requests to produce documents on each other, and each shall respond to that discovery in the time allotted by the Rules of Civil Procedure. The case is otherwise **STAYED** pending resolution of the appeals by the co-defendants or further order of the Court.
3. Ruling on the plaintiff's motion for leave to file a revised first amended complaint, (Doc. 248), is **DEFERRED**. Pursuant to stipulation, (Doc 236), and without objection, (Doc. 256), the Court anticipates promptly granting the motion should its decisions on arbitration be upheld. Should the Court's

decision be reversed as to any defendant, the parties are directed to confer and to advise the Court within five business days of the issuance of the mandate as to the effect of the decision on the motion to amend.

This the 24th day of October, 2016.



UNITED STATES DISTRICT JUDGE